

Hon. Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MARTHA KARL,

Plaintiff,

v.

CITY OF MOUNTLAKE TERRACE,
CHARLES "PETE" CAW, SCOTT HUGILL,

Defendants.

No. C09-1806 RSL

MOTION TO STRIKE EXTRANEIOUS
CONTENT IN CR 37 JOINT SUBMISSION

COMES NOW Plaintiff, pursuant to Local Rules CR 37 and CR 7(g)(2), and moves this court to strike all extraneous content submitted by Defendants as part of the CR 37 Joint Submission.

BACKGROUND

Plaintiff and Defendants agreed to utilize the expedited CR 37(a)(1)(B) motion to resolve the dispute over the scope of the alleged mediation confidentiality. Defendants, the moving party, submitted their initial pleading to Plaintiff on Friday, July 23, 2010. Supplemental Shaeffer Dec. ¶ 1. On Wednesday, July 28, the defense supplied a corrected version of the brief (correcting a typo), along with the Declaration of Brenda Bannon. Supp. Shaeffer Dec. ¶ 2 and Exs. 1 and 2. Plaintiff responded with her portion of the pleading and the Declaration of Andrea Brenneke on Friday, July 30, 2008. Supp. Shaeffer Dec. ¶ 3. Defendants filed the "Joint" submission with extraneous, new content, argument, and evidence that Plaintiff has never seen or

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had an opportunity to address and that exceeds the half-page Defendants' "Reply" to which they were entitled. The extraneous content includes:

- I. Section I. Legal Issue Presented, including the lengthy footnote 1;
- II. Section II. Evidence Presented, including footnote 2;
- III. Section VIII. Reply - 20:13-22 including footnotes 11 and 12 (Defendants note they are entitled to half a page, not a full page);
- IV. The entire Defense Appendix - 94 pages of legal authority;
- V. Declaration of Brenda Bannon - 1:17-18; 1:21-2:23; 3:10-11; and 4:3-5:19.
- VI. The entire Declaration of Michael Bolasina.

ARGUMENT

The expedited discovery process is designed to promote expeditious resolution of discovery disputes. It relies on a series of exchanges of information to ensure the moving party sets forth all of its argument and evidence and the responding party has proper notice and an opportunity to respond. The rule contemplates a very short reply, not substantive new argument and evidence to which the non-moving party has not had an opportunity to address.

Local Rule CR 37 (a)(1)(B)(iv) provides: "The moving party's reply, if any, in support of a disputed discovery request shall follow the opposing party's rebuttal for such request in the joint submission and shall not exceed one half page for each reply."

In this case, the defense raises new legal arguments and new evidence that Plaintiff has never seen and did not have an opportunity to brief in response. That violates the Civil Rules and the spirit of a joint submission. The extraneous materials should be stricken.

CONCLUSION

Plaintiff respectfully requests that this court strike the following extraneous content:

- I. Section I. Legal Issue Presented, including the lengthy footnote 1;
- II. Section II. Evidence Presented, including footnote 2;
- III. Section VIII. Reply - 20:13-22 including footnotes 11 and 12 (Defendants note they are entitled to half a page, not a full page);

1 IV. The entire Defense Appendix - 94 pages of legal authority;

2 V. Declaration of Brenda Bannon - 1:17-18; 1:21-2:23; 3:10-11; and 4:3-5:19.

3 VI. The entire Declaration of Michael Bolasina.

4 DATED this 12th day of August, 2010.

5 Respectfully submitted,

6 MacDONALD HOAGUE & BAYLESS

7
8 By 

Andrea Brenneke, WSBA #22027

9 Joseph R. Shaeffer, WSBA #33273

10 Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Mark R. Bucklin, WSBA # 761
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DATED at Seattle, Washington, this 12th day of August, 2010.


Jennifer King